

Application No. 10/041,591
August 16, 2004
Request for Continued Examination
and Amendment

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Remarks:

On May 12, 2004, the Examiner rejected Claims 1 and 3-7 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,073,428 to Diekhans in view of U.S. Patent No. 6,589,136 to Ephraim et al. ("Ephraim").

First, the Applicant would like to thank Examiner Mammen for his participation in an August 11, 2004 telephone interview; the Applicant is extremely appreciative. During the interview, the Applicant and Examiner discussed Claims 1 and 3-7. More specifically, the Applicant and Examiner discussed Claims 1 and 3 relative to the cited prior art. In discussion, and without regard to the Examiner performing an additional search, it was agreed that Claim 3, if amended to incorporate all of the subject matter and limitation of Claim 1, from which it depends, would include subject matter novel over Diekhans in light of Ephraim.

Accordingly, the Applicant has cancelled Claim 1 and amended Claim 3 to incorporate all of the limitations of Claim 1 into Claim 3. The Applicant further amended Claim 3 to highlight that the engine control circuit of the present invention operates at different speeds based on the position of the speed modification switch. More specifically, Claim 3 includes that the engine control circuit is responsive to input from the throttle control switch and the speed modification switch for selectively controlling the engine to run at a first speed for a given position of the throttle control switch when the speed modification switch is in the first state, the first speed being selectable from a range of engine speeds that provide fuel economy and prevent power overload of the threshing, cleaning and separation systems during crop harvesting, the threshing, cleaning and separation systems obtaining their power from the engine, the engine control circuit being further responsive to input from the throttle control switch and the speed

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modification switch for controlling the engine to run at a second speed higher than the first speed when the throttle control switch is in the given position and the speed modification switch is in the second state, the engine control circuit providing additional power to permit higher engine speeds for propelling the combine harvester at the second speed higher than the first speed when the threshing, cleaning and separation systems are not operating, the additional power normally being used to power the threshing, cleaning and separation systems during crop harvesting, the engine control circuit comprising a programmable microprocessor connected to receive input from the throttle control switch and the speed modification switch.

In light of the aforementioned amendments to Claim 3, it is believed that Claim 3 is non-obvious and patentable over Diekhans in light of Ephraim. For example, Ephraim does not teach work speed values that correspond to each position of the throttle control. Instead, Ephraim teaches "work speed values" which correspond to gear ratios—i.e. whether the transmission is in a predetermined range. Further, Ephraim does not teach fuel efficiency as described in amended Claim 3—i.e. use of a limited amount of power, the additional power of the second state being power normally used to power the threshing, cleaning and separation systems during crop harvesting when the modification switch is in the first state. It is thus believed that Claim 3 is non-obvious and patentable over Diekhans in light of Ephraim.

Finally, Claims 4-7 have been amended to keep antecedent bases indicators consistent as a matter of form and not in response to any Examiner rejection or objection.

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In summary, and in light of the Applicant's Remarks and claim amendments, it is believed that Claims 3-7 are patentable and in condition for allowance. Therefore, favorable reconsideration of the application is respectfully requested. Should the Examiner believe that the prosecution of the application could be so expedited, he is requested to call Applicant's undersigned Attorney at the number listed below.

Respectfully submitted:

BY



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